IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 1856/1998

LALIT KUMAR BAROTHIA
Vs.
HINDUSTAN MACHINE TOOLS LTD., & ANR.

Date: 21.12.2006.

HON'BLE MR. K.S. RATHORE, J.

Mr. A.K. Bhandari, Sr. Counsel with
Mr. Kinshuk Jain for the petitioner.
Mr. Shiv Singh for the respondents.

****

This writ petition is directed against the acceptance of the voluntary retirement sought by the petitioner vide his application dated 22.12.92.

It is not disputed that the petitioner moved application seeking voluntary retirement vide application dated 22.12.92 but the same was rejected on 09.02.93 stating therein that the petitioner is not qualified to seek voluntary retirement, but after two months vide order dated 16.04.93, the has been accepted and the petitioner is voluntarily retired.

Learned counsel Mr. Bhandari, Sr. Advocate appearing on behalf of the petitioner submits that the application seeking voluntary retirement was rejected vide order dated 09.02.93 and the respondents at their

own after lapse of two months cannot accept the same as the petitioner is at liberty to withdraw the application by which he seeks voluntary retirement, but since the application itself is rejected and the petitioner allowed to continue in service, therefore, there was no occasion arisen but one morning vide impugned order dated 16.04.93, the application which was rejected earlier, has been accepted and the petitioner is voluntarily retired, therefore, this writ petition is preferred.

Per contra, learned counsel appearing for the respondents submits that as per the policy the respondents are empowered to relax and modify the conditions and even otherwise the petitioner has either to complete requisite length of service or to attain 45 years and he still rendered the qualified service and after examining this aspect, the application which was rejected by which the petitioner asked for voluntary retirement, has been accepted and the petitioner has not objected, on the contrary received all retiral benefits and also obtained a No Objection/Dues Certificate which is placed along with the reply as Annexure-R/4. Further it is submitted that the petitioner never withdrawn the application earlier submitted in the year 1992 and this writ petition is

also filed after lapse of 5 years and during pendency of the writ petitioner, the petitioner also attained superannuary age.

Having considered the rival submissions of the respective parties and upon perusal of the material available on record, it is not disputed that the petitioner has moved application seeking voluntary retirement on 22.12.92 and it is also not disputed that the same was rejected vide order dated 09.02.93 on the wrong premises that the petitioner is not qualified, though at that time the petitioner already rendered 21 years of service and as per the policy he was qualified to seek voluntary retirement and after two months vide order dated 16.04.93, the application of the petitioner dated 22.12.92 has been accepted and without submitting protest at the relevant point of time, the petitioner received all the retiral benefits on account of voluntary retirement and has also obtained No Objection Certificate by the respondents.

The petitioner is also not able to explain the delay caused in filing the writ petition as the writ petition is preferred after lapse of more than 5 years in the year 1998. Even otherwise also, since the petitioner has accepted the retiral benefits pursuant to the voluntary retirement and in view of the order

dated 16.04.93, now at this belated stage, the petitioner is estopped to challenge the order of acceptance may be on legal ground.

In view of these observations, I find no merit in the writ petition.

Consequently, the writ petition fails and the same is hereby dismissed.

(K.S. RATHORE),J.

/KKC/